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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/319,649	06/10/1999	TOMIHISA KAMADA	Y-163	3408

7590 12/05/2001

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PORTLAND, OR 97204

EXAMINER

TUNDRA, DIMITRI

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 12/05/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/319,649

Applicant(s)

KAMADA ET AL.

Examiner

Dimitri Tundra

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Specification*

The specification is objected to as replete with numerous grammatical errors and unclear phrasing apparently as a result of translation. Applicant is advised to review and carefully revise the specification accordingly.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 3, 5 – 8, 10 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh (US 5374951) in view of Gerace (US 5848396).

Regarding claims 1 and 6, Welsh shows a device for obtaining audience data on TV programs (see abstract), in an audience data obtaining device which uses a computer (Program Monitoring Unit 8, fig. 1 and 2; the notion of using a computer-type device is presented by microprocessor 19 of fig. 2), the device comprising of:

a first step of obtaining, from outside, TV program table data for an area where a viewer resides (col. 3, ln. 29 – 34 shows the notion of a TV program table data, that contain a set of words that identify the channel, being downloaded; col. 14, ln. 40 – 43 show that the data collected depends on the “demographic data”, which implies that the table distinguishes demographic data);

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a second step of obtaining audience date, which includes viewed channel information and viewed time information of TV (col. 6, ln. 7 – 9 show program code and time in the log that inherently mean that channel and time was obtained for the viewing audience);

a third step of obtaining at least a program id of a viewed program by comparing the audience data with the TV program table data (col. 5, ln. 52 – 63);

Welsh does not explicitly show a fourth step of transferring, via the Internet to a collection center, the obtained program ID and the viewed time information along with ID data of the viewer, although he specifies that the data is transmitted to the central location via the telephone line (col. 5, ln. 9 – 19). Gerace shows using the Internet to transfer behavioral profile of the users to the collection center (fig. 2; col. 3, ln. 54 – 67 explain that all communications are done over the Internet). It would have been obvious for one of ordinary skill in the art to modify Welsh to support Internet transfer of the user data, because of the reliability of the Internet protocol.

Regarding claim 11, in combination with limitations of claims 1 and 2, Welsh further discloses a recording medium for storing a computer readable program (program monitoring unit in fig. 2 must use one of the storage devices ROM, EEROM, RAM to store the program that obtains the user ratings. Col. 5, ln. 17 – 19 disclose downloading instructions for the monitoring unit – which is part of the program. It is inherent that they have to be stored in some recording medium in the unit. Further, in col. 5, ln. 52 – 63 Welsh discloses the microprocessor 19 executing instructions

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(computer readable program). The processor must inherently read them from some kind of recording medium.

Regarding claims 2 and 7, Welsh shows automatically and regularly obtaining the TV program table data by use of broadcasting medium (col. 3, ln. 29 – 34 and col. 5, ln. 9 – 19), and automatically and regularly performing the transmission to the collection center (col. 5, ln. 9 – 19).

Regarding claims, 3, 8, 12, and 13, Welsh shows an apparatus for obtaining audience data of TV programs, wherein the first step includes automatically obtaining the TV program table data (col. 3, ln. 29 – 34 and col. 5, ln. 9 – 19), and the forth step includes automatically performing the transmission to the collection center (col. 5, ln. 9 – 19). Welsh does not explicitly show the data transfer by making use of opportunities of the viewer's accessing the Internet. Gerace shows using the Internet to transfer behavioral profile of the users to the collection center (col. 3, ln. 54 – 67 explain that all communications are done over the Internet, accessed by the user). It would be obvious to modify Welsh to support Internet transfer of the user data, because of the reliability of the Internet protocol.

Regarding claim 5 and 10, in combination with limitations of claim 1 and 6, Gerace further discloses using HTML to transmit data to be transferred (col. 3, ln. 65 – 67 disclose the system being run on the Oracle Web server as HTTP server to support operation of the program, which inherently implies using HTML language).

Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh (US 5374951) in view of Gerace (US 5848396) and further in view of Rothmuller (US 5635989).

Regarding claims 4 and 9, Welsh and Gerace show the system of claims 1 and 6. Neither Welsh nor Gerace show the system ignoring a continuously viewed time of a program when the viewed time is shorter than a predetermined time. Rothmuller shows a system that puts a program in the favorite list if the program is viewed for more than a predetermined period of time (fig. 4; col. 5, ln. 59 –66). Only storing a program in the *that has been viewed for more than a predetermined time* "favorites" list precludes storing programs that the user has only a quick, passing interest in or programs that the user merely scans through. Therefore, it would have been obvious to further modify Welsh in view of Gerace by only reporting programs watched for a time, which exceeds a predetermined minimum, thereby insuring that the user has more than just a passing interest in the program.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Welsh (US 4857999) further describes the video monitoring system of the primary reference.

Berard (US 5801747) shows generating user profile where only the time longer than a predetermined time is taken into account.

Hendricks et al. (US 5798785) shows a system with user profile obtaining capability.

**Contact Fax Information**

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or Faxed to:**

(703) 372-9314, (for formal communication intended for entry)

**or:**

(703) 308-5399, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")


Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dimitri Tundra whose telephone number is (703) 605-4246. The examiner can normally be reached Monday – Thursday, 8:30AM – 6:00PM and every even week of the month on Friday 8:30 AM – 5:00PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-5399.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

DT:dt  
December 02, 2001